

Notice of Allowability

Application No.

10/719,129

Examiner

Scott Sun

Applicant(s)

BARNES ET AL.

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments filed 8/21/2006.
2. ☒ The allowed claim(s) is/are 1, 3-6, 8, 9, 11-14, 16, 17, 19-22, 24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Janaki Davda on 10/25/2006. Examiner notes that the amendments are made to clarify an indefinite problem that results from separating three conditions ("largest amount of resources", "have already received a message to stop sending data with a subsequent message to resume sending data" and "have not already received a message to temporarily stop sending data") using a conjunction, "AND" and a disjunction, "OR", without specifying the order in which to interpret the respective conjunction and disjunction.

3. The application has been amended as follows:

4. In claim 1, lines 4-9, please replace

"wherein the one or more primary control units that are notified to temporarily stop sending data are selected based on which ones are using a largest amount of resources and that have already received a message to temporarily stop sending data with a subsequent message to resume

sending data or have not already received a message to temporarily stop sending data”

With:

“wherein the one or more primary control units that are notified to temporarily stop sending data are selected from ones that are using a largest amount of resources and that have received a message to resume sending data after receiving a message to temporarily stop sending data, and ones that are using the greatest amount of resources and that have not already received a message to temporarily stop sending data”

5. In claim 9, lines 5-9, please replace

“wherein the one or more primary control units that are notified to temporarily stop sending data are selected based on which ones are using a largest amount of resources and that have already received a message to temporarily stop sending data with a subsequent message to resume sending data or have not already received a message to temporarily stop sending data”

With:

“wherein the one or more primary control units that are notified to temporarily stop sending data are selected from ones that are using a largest amount of resources and that have received a message to resume sending data after receiving a message to temporarily stop sending data,

and ones that are using the greatest amount of resources and that have not already received a message to temporarily stop sending data”

6. In claim 17, lines 3-7, please replace

“wherein the one or more primary control units that are notified to temporarily stop sending data are selected based on which ones are using a largest amount of resources and that have already received a message to temporarily stop sending data with a subsequent message to resume sending data or have not already received a message to temporarily stop sending data”

With:

“wherein the one or more primary control units that are notified to temporarily stop sending data are selected from ones that are using a largest amount of resources and that have received a message to resume sending data after receiving a message to temporarily stop sending data, and ones that are using the greatest amount of resources and that have not already received a message to temporarily stop sending data”

7. With the claims amended as above, claims 1, 3-6, 8, 9, 11-14, 16, 17, 19-22, 24 are allowed.

8. The following is an examiner's statement of reasons for allowance:

Claims 1, 9, and 17 recite, inter alia, "wherein the one or more primary control units that are notified to temporarily stop sending data are selected from ones that are using a largest amount of resources and that have received a message to resume sending data after receiving a message to temporarily stop sending data, and ones that are using the greatest amount of resources and that have not already received a message to temporarily stop sending data". Prior art of record do not teach or suggest, either alone or in combination, the aforementioned limitation, nor would it be obvious to modify those references to include such limitation. Examiner notes that prior art of record teaches that the primary control units that are notified to temporarily sending data (pause frame) are selected based on the ability of the primary control unit to pause (pause capable and pause incapable devices), rather than using the selection criterions as stated above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Sun whose telephone number is (571) 272-2675. The examiner can normally be reached on M-F, 10:30am-7pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim N. Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SS



KIM HUYNH
SUPERVISORY PATENT EXAMINER

10/30/06